(age, etc.) that the learned Judge reduced the sentence from 3 months to one.

I do not propose to set out the facts of the three cases with which I am now dealing. It is sufficient to say that if I had been in the position of the learned Magistrate I should not have considered that the facts of any of these cases justified a prison sentence for a first offender. Moreover the sentence imposed was in each case three-quarters of the maximum for a first offender. But it is conceivable that, except in case No. 229 of 1953, I might only have reduced the prison sentences if I had been satisfied that the learned Magistrate, instead of giving effect to his dislike of a "type of offence" which we must all abhor, had seriously applied his mind to the facts of each case, and in particular had considered (a) the degree of intoxication and therefore the degree of the appellant's incapacity to control his vehicle, and (b) the effect of his sentence, including the disqualification, on the individual he was punishing. In case No. 229 of 1953 I should in any event have substituted a fine for imprisonment, because the medical evidence showed that the appellant was in a "mild" state of intoxication. But shortly, in considering whether a prison sentence should be imposed in the case of a first offender, the facts of the case must be carefully studied and the gravity assessed according to the 'yard stick' afforded by the Legislature in providing a maximum of 4 months imprisonment for a first offence. Upon the charges of "driving under the influence" I quashed the sentences of imprisonment and substituted fines of $400 in cases No. 231 of 1953 and No. 218 of 1953 and a fine of $250 in case No. 229 of 1953 (where the appellant was a taxi-driver and the disqualification entailed the loss of his livelihood).

It remains to consider certain points of law which arose in case No. 231 of 1953. The appellant was charged with "driving under the influence" (section 27(1)), "negligent driving" (section 25(2)), and "driving without a licence" (section 13(5)). He pleaded guilty to the 3rd charge. He was found guilty upon the first and second charges, and sentenced to 3 months imprisonment upon the first charge and fined $50 upon the second. I agree that he was rightly charged with the additional charge of negligent driving and rightly convicted because the offence of negligent driving is a separate and distinct offence from "driving under the influence". (A person may "drive under the influence" and yet not drive negligently). But having punished the appellant in respect of the first charge, a nominal penalty should have been imposed in respect of the second, and I substituted a fine of $10 for the fine $50 on the 2nd charge. In this connection I may draw attention to the sentences imposed in the case of *James William Howell*[1].

One of the grounds of appeal was that the charge was bad for duplicity in that it charged the appellant with driving "whilst under the influence of drink or drugs". That point is disposed of by the decision in *Thompson v. Knight*[2].

Sentences of imprisonment quashed. Fines substituted.

Solicitors for appellants: *Battenberg & Talma; Osborne Jones & Co.; and L. Rayner.*

TAN KHOON HONG v. A. M. THORNLAY (W.).

[O. C. J. (Murray-Aynsley, C.J.) March 31, 1954]

[Singapore — Originating Motion No. 65 of 1953]

Landlord and tenant — Control of Rent Ordinance, 1953, ss. 7 & 9 — Proviso to s. 9(1)(b) — Interpretation of — Powers of Rent Conciliation Board.

On the 11th June 1953, the applicant entered into a written agreement with the respondent, under which the respondent was to become the applicant's tenant of certain premises at a monthly rental of $1,000 payable in advance, and subject to the covenants of the written agreement.

On the 29th June 1953, the applicant took out a summons before the Rent Conciliation Board to increase the rent of the premises from $162 to $1,000 in accordance with the Tenancy Agreement.

On the 20th July 1953, the Control of Rent Ordinance 1953 came into force.

Upon the hearing of the application which took place subsequent to the coming into force of the 1953 Ordinance, Counsel for the applicant contended that having regard to the date when the application was filed, the Board should exercise jurisdiction under the 1947 Ordinance. The Board held that its powers were confined to those conferred by section 9 of the 1953 Ordinance, that it could only award an increase of rent as prescribed by that section, and that consequently it could not fix the rent at the figure sought by the applicant. The applicant applied by Motion to the High Court for a review of the Board's decision, —

Held: (1) the decision of the rent Conciliation Board was right; there was no Rent Conciliation Board in existence at the time the application was heard with jurisdiction to make the increase sought for; (2) the reference to section 7(1)(c) and through it to the First Schedule in section 9(1)(b) of the Control of Rent Ordinance, 1953, is merely for the purpose of showing what the permitted increase is, and section 7(1)(c) does not cut down the generality of the limitation imposed by the proviso on the powers of the Board.

In re Application of Laycock & Ong[1] dissented from in so far as it related to the interpretation of the proviso to section 9(1)(b) of the Control of Rent Ordinance, 1953.

Case referred to:—

(1) *In re Application of Laycock & Ong* (1954) M.L.J 41.

APPLICATION FOR REVIEW.

K. Gould for the applicant.

M. W. Maxwell for the respondent.

Murray-Aynsley, C.J. : —Matters at present before the Court arose out of an application under section 13 of Ordinance No. 22 of 1953 in which the applicant complained that the Board was wrong in law in that it held that it had no power to authorize the rent agreed upon between the parties by reason of the proviso to section 9(1) (b). When the application was made under section 13 the ground seems to have been merely that by reason of the fact that application was made before the present Ordinance came into force this proviso did not apply. Before me a further point of law was taken, *viz.* that on a true construction of the proviso it would not apply to the present case in any event. This proposition was based on an unreported judgment of Taylor, J. given in Originating Motion 58 of 1953[1]. I have read a copy of this judgment. The learned Judge appears to be of the opinion because the proviso refers to section 7 to arrive at the figure of the permitted increase, the limitation of its powers by the proviso is limited to those cases in which section 7(1) (c) applies, i.e. to cases where without an application to the Board the landlord could increase rent up to the amount set out in the First Schedule, subject to the power of the Board to make an order fixing the rent at another figure if it thought fit to do so.

I cannot agree with this construction. It involves reading words into the proviso which are not there and it results in the absurdity that where the landlord has by section 7 a certain power of increasing rent and presumably, in the eyes of the legislature, a good excuse for doing so, the amount of the increase is strictly limited, where the landlord had no such excuse the amount of the permitted increase is unlimited. I think that the reference to section 7(1) (c), and through it to the First Schedule, in section 9(1) (b) of the Ordinance is merely for the purpose of showing what the permitted increase is, and section 7(1) (c) does not cut down the generality of the limitation imposed by the proviso on the powers of the Board.

The other point arises out of the following facts: The agreement which the applicant wishes the Board to sanction was made on June 11th 1953. On June 27th the present Ordinance was assented to. On June 29th an application was made to the then Board established under the 1947 Ordinance. On July 20th the present Ordinance came into force and the old Ordinance was repealed. Both Ordinances set up *ad hoc* bodies with limited but not identical powers. "A Rent Conciliation Board shall be established consisting of a president and such other persons as may be appointed by the Governor by notification in the Gazette." In the present Ordinance there was no transitional provisions such as are found in Ordinance 30 of 1947. It may be that the Interpretation and General Clauses Ordinance of 1951 had the effect of rendering it unnecessary to make a fresh application when a new Board had been appointed. I do not express any opinion on this point but I am quite sure that when the application came up for hearing in August 1953 there was no body in existence which had power to sanction the increase asked for by the applicants. Without such sanction the rent agreed between the parties was clearly illegal.

Order accordingly.

Solicitors for the applicant: *Rodyk & Davidson.*

Solicitors for the respondent; *Sisson & Delay.*